

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

ANNE FLORENCE ANDRE-PEARSON,

Plaintiff,

vs.

Hon. Paul Maloney  
Magistrate Judge Joseph G. Scoville  
Case No. 1:12-cv-01223

GRAND VALLEY HEALTH PLAN, INC.  
a Michigan Corporation

Defendant.

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**DEFENDANT'S OBJECTIONS TO  
THE MAGISTRATE JUDGE'S OCTOBER 18, 2013 ORDER  
GRANTING MOTION FOR LEAVE TO AMEND COMPLAINT**

Defendant Grand Valley Health Plan ("GVHP"), through its undersigned counsel, and pursuant to Fed. R. Civ. P. 72 and E.D. Mich. L.R. 72.1, objects to the Magistrate Judge's October 18, 2013 Order because it permits Plaintiff to file an Amended Complaint asserting an ERISA denial of benefit claim that, in part, is subject to dismissal because of the applicable statute of limitations as well as Plaintiff's failure to exhaust her administrative remedies. As set forth in the attached brief, the Magistrate Judge's Order is clearly erroneous and contrary to law and should be reversed.

WHEREFORE, GVHP requests that the Court sustain these objections to the Magistrate Judge's Order and enter an Order ruling that (a) Plaintiff's Amended Complaint is limited to

those services covered by Plaintiff's second-level appeal, which relates solely to claims incurred for non-emergency, non-preauthorized treatment outside GVHP's service area at St. Mary's Hospital and the Mayo Clinic from 9/14/11 to 9/21/11 and 10/10/11 to 10/17/11 and (b) Plaintiff may not recover for attorney fees incurred during the claim and appeal process.

Respectfully submitted

Miller, Canfield, Paddock and Stone, P.L.C.

By /s/ Brian M. Schwartz (P69018)

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Dated: October 31, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2013, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification to:

Michelle Marie McLean [michellem@bolhouselaw.com](mailto:michellem@bolhouselaw.com)

/s/Brian M. Schwartz

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